ENERGY REGULATORY COMMISSION

ERC

• PHILIPPINES •

2003 Annual Report

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Chairman's Message

ERC: REACHING OUT TOWARDS A STRONG POWER SECTOR

Year 2003 has not only marked the second (2nd) anniversary of the Energy Regulatory Commission (ERC), but also brought the Commission in the forefront of the nation's consciousness. The public has come to realize ERC's pivotal role in the restructured energy industry. Ever mindful of its mandate, the Commission takes pride in the fact that all its decisions were legally defensible, economically sound, and strategically forward-looking.

The ERC issued seventy-four (74) Unbundling Decisions and granted Provisional Authorities (PAs) to one hundred seventeen (117) Electric Cooperatives in order to reduce their respective rates due to Loan Condonation. The Commission promulgated the Transmission Wheeling Rates Guidelines, the first among the other guidelines that will institutionalize the Performance-Based Rate-Setting Methodology. The Guidelines for the Sale and Transfer of TRANSCO's subtransmission Assets and the Franchising of Qualified Consortia, Guidelines for the Collection of the Universal Charge, and Guidelines for Remittances to and Disbursements from the Special Trust Fund, were also approved and enforced to further enhance the Commission's regulatory effectiveness.

It was in 2003 that the ERC prioritized, facilitated, and ordered the three (3) phases of the Manila Electric Company (MERALCO) refund as ordered by the Philippine Supreme Court in its landmark decision.

In order to further strengthen institutional, organizational and mass linkages, the ERC also launched the TEXT ERC Project and established the Power News, the Official Newsletter of the ERC, which distributed two (2) issues in 2003. These two projects complement the existing ERC website, consumer hotlines, and consumer desks.

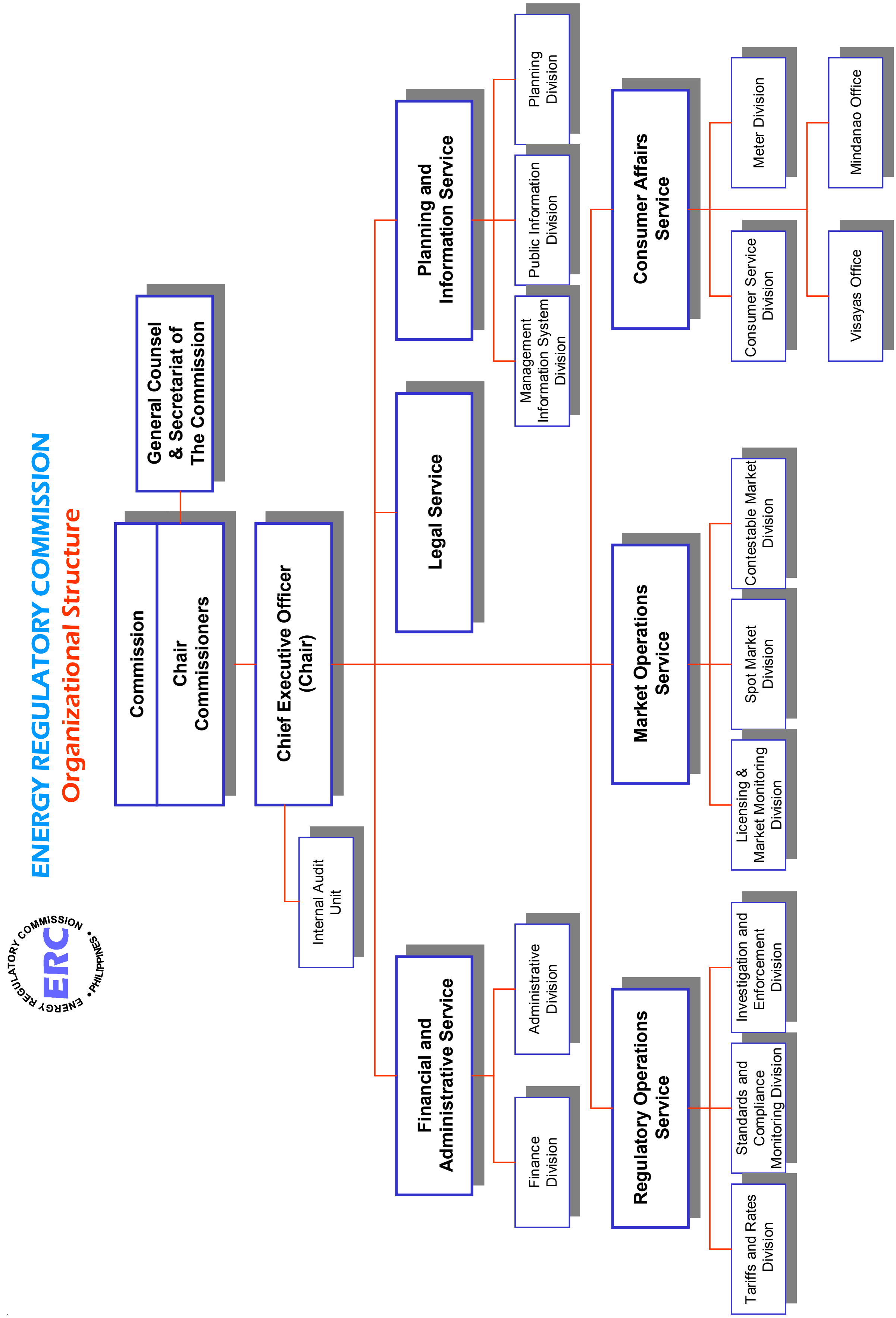
The ERC also undertook a number of projects designed to foster camaraderie and team spirit within the organization such as personnel trainings and development, provision of a day care center, and personnel movements and promotions to deserving public servants.

Year 2002 was said to be a year of molding and re-shaping the regulatory environment. Year 2003, on the other hand, was definitely a year of courageous decision making and effective program implementation. As the EPIRA was utilized, tested and criticized, the Commission proactively pushed for fiscal autonomy by submitting proposed amendments to the House of Representatives. The creation of a Meter Division was also proposed under the Consumer Affairs Service in order to improve the income-generating capacity of the Commission and address the proliferation of fake meter seals and falsified test reports.

Armed with the cleanest of intentions and strengthened by the people's trust and confidence, the Commission will boldly brave all the challenges and take advantage of all the available opportunities. The Commission promises to continue positioning itself well for the future by executing a number of initiatives designed to speed up the energy reform process.

MANUEL R. SANCHEZ
Chairman and CEO

07 January 2004


ENERGY REGULATORY COMMISSION
Organizational Structure
Commission
Chair
Commissioners
General Counsel & Secretariat of The Commission
Chief Executive Officer (Chair)
Internal Audit Unit
Financial and Administrative Service
Finance Division
Administrative Division
Legal Service
Planning and Information Service
Management Information System Division
Public Information Division
Planning Division
Regulatory Operations Service
Tariffs and Rates Division
Standards and Compliance Monitoring Division
Investigation and Enforcement Division
Market Operations Service
Licensing & Market Monitoring Division
Spot Market Division
Contestable Market Division
Consumer Affairs Service
Consumer Service Division
Meter Division
Visayas Office
Mindanao Office

The Commission Officials

Manuel R. Sanchez*
Chairman

Oliver B. Butalid
Commissioner

Mary Anne B. Colayco**
Commissioner

Leticia V. Ibay
Commissioner

Carlos R. Alindada
Commissioner

Jesus N. Alcordo***
Commissioner

Fructuoso C. Lagunzad, Jr.
Executive Director III

**Chairman from April 2, 2003 to December 31, 2003*
*** Resigned September 10, 2003*
****Appointed September 24, 2003*

MAJOR ACCOMPLISHMENTS UNDER THE EPIRA FOR CALENDAR YEAR (CY) 2003

Two years after the passage of the Electric Power Industry Reform Act (EPIRA), the Commission has achieved significant progress in its commitment to implement the provisions of the Act.

For better perspective, the discussion below details ERC's highlights of accomplishments in accordance with the restructuring of the electric power industry into generation, transmission, distribution, and supply sectors:

1. **GENERATION** – The generation sector is open to competition. Once NPC's generation assets are privatized and upon the establishment of the WESM, ERC's role will be limited to the promulgation of rules, standards and the monitoring of the conduct of generation companies.

   - **Promulgation of Guidelines for the Collection of Universal Charge** – Pursuant to Section 34 of the EPIRA and Rule 18 of its IRR, the ERC is mandated to determine, fix and approve a universal charge as well as regulate disbursements and distributions from the Universal fund. Said determination is governed by the Guidelines for the Collection of Universal Charge (UC) promulgated on 05 December 2003.

     The Guidelines prescribe:
     1. The procedure for the collection of the UC by collecting entities
     2. The deferment of collection of UC from Self-Generation Facilities for four (4) years

3. The power to disconnect electric service, among others, in case of late, partial, and non-payment of UC
4. The reportorial requirements and procedures in reporting by collecting entities
5. The collecting Entities' and PSALM's accountability and
6. Fines and penalties for any violation or non-compliance with the Rules.

- **Approval of the Guidelines and Procedures Governing Remittances and Disbursements from the Universal Charge**

The ERC approved on 05 December 2003 the Guidelines Governing Remittances and Disbursements of the Universal Charge. This is pursuant to Section 6 (b) of Rule 18 of the IRR requiring PSALM to come up with the said guidelines.

The Guidelines provide for:

1. The remittance to the Special Trust Funds (STFs) of Universal Charge (UC) amounts collected and received by the Distribution Utilities, Suppliers, and TRANSCO or its Concessionaire
2. The administration of the STFs by PSALM
3. The provision of information to PSALM so that it may comply with its obligation to manage the UC funds and
4. The disbursement of the UC by PSALM to the beneficiaries according to their ERC-approved entitlements.

PSALM published the Guidelines on 26 December 2003 and the same became effective fifteen (15) days after or on 10 January 2004.

These guidelines provided the mechanism for the efficient allocation, remittance, and disbursement of UC.

- **Approval of the Generation Rate Adjustment Mechanism (GRAM) and the Incremental Currency Exchange Rate Adjustment (ICERA)** – Section 43 (f) of the EPIRA empowers the ERC to determine a "rate-setting methodology which shall promote efficiency". By virtue of the same, the GRAM and its implementing rules and regulations were promulgated on 24 February 2003. The GRAM is an adjustment recovery mechanism which replaces the automatic recovery adjustment mechanisms of the NPC (Fuel and Purchased Power Cost Adjustment) and the Distribution Utilities (Purchased Power Adjustment). It allows the quarterly adjustment to the Generation Rate to reflect the changes in fuel and IPP Costs after a review by the ERC before costs are passed on to consumers.

The table below shows the basic difference between the old recovery mechanism (PPA) and the GRAM:

Table 1. COMPARATIVE TABLE BY ELEMENTS PPA AND GRAM

ELEMENTS	PPA	GRAM
Review by the Regulatory Body (ERC	After the cost had been passed on to the consumers	Before the cost may be passed on to the consumers
Change in Rates	Monthly	Quarterly
Change in recovery of fixed costs of generation	Automatic but subject to confirmation by the ERC	Only through a petition to adjust generation rate subject to approval by the ERC within a maximum period of forty-five (45) days
Transmission component	Included	Excluded
System loss and franchise tax	Included	Excluded
Carrying Cost	Without carrying cost	With carrying cost

The GRAM makes the rate-setting process more pro-consumer since prior review of the ERC is necessary in order to evaluate the reasonableness and prudence of costs before the same are passed on to the electricity customers. It also makes the

rate more transparent, since the amount passed on is not an automatic adjustment but a result of an exhaustive evaluation, and stable, since the changes in rates are made per quarter.

The ICERA, on the other hand, is an adjustment mechanism that allows a quarterly adjustment to the FOREX Adjustment/ CERA to reflect the changes in currency exchange after a review by the ERC before said changes are passed on to consumers.

The following are the basic differences between the old recovery mechanism CERA and the ICERA:

Table 2. COMPARATIVE TABLE BY ELEMENTS CERA AND ICERA

ELEMENTS	CERA	ICERA
Review by the Regulatory Body (ERC	After the cost had been passed on to the consumers	Before the cost may be passed on to the consumers
Change in Rates	Monthly	Quarterly
Carrying Cost	Without carrying cost	With carrying cost

The same pro-consumer and transparent features of the GRAM are also in the ICERA.

- **Issuance of Certificate of Compliance (COC) Certificates**

Generation companies, including the Independent Power Producers (IPPs) and self-generation companies are required to secure Certificates of Compliance (COC) from the ERC pursuant to the EPIRA. The COC is issued upon compliance with the Philippine Grid and Distribution Codes (PGDC), the Wholesale Electricity Spot Market (WESM) Rules, the Cross Ownership and Market Share Limitations and the Environmental Compliance Certificate (ECC), among other requirements. The public is, thus, assured that an entity issued a COC has the ability to provide stable and reliable electricity to its clients in the long run.

The Commission had approved fifty-seven (57) Certificate of Compliance (COC) applications. (Please refer to Annex 1).

Decisions Concerning Universal Charge

The Commission conducted three (3) hearings and decided two (2) cases concerning the availment from the Universal Charge component of rates in 2003. These concern the environmental and missionary electrification charges.

The Commission authorized, in a decision dated 2 April 2003, the collection of an environmental charge amounting to P0.0025/kWh for the rehabilitation and management of the watershed areas. The ERC allowed the drawing of up to P70 Million from the Special Trust Fund (STF) managed by PSALM as NPC's budget for its 2003 Watershed Management and Rehabilitation Project.

The NPC originally requested for a budget of P119.5 Million. One of the reasons the Commission reduced the same to P70 Million is because the ERC used the actual 2002 sales of 34,062 GWH inflated with the 2003 growth rate forecast in estimating the expected amount to be generated from the environmental charge for the year 2003. Thus, based on the forecasted growth rate of 7.95%, the Commission projected that approximately P92 Million would be collected. Other reductions were made due to the deferment of some programs included in the original proposal. These reductions were done in close coordination and consultation with the NPC-Watershed Management Department (NPC-WMD).

With regard to the provision of missionary electrification in unviable areas, the NPC-SPUG proposed a total levy of P0.0831/kWh consisting of operating expense (OPEX) and capital expense (CAPEX) in the amounts of P0.0256 and P0.0575, respectively, based on the projected energy sales of P47,917 GWh and a projected revenue of P2.22 Billion.

The ERC, in its decision dated 26 June 2003, approved NPC-SPUG's application to withdraw from the STF the missionary electrification component of the Universal Charge. The amount approved was P0.0373/kWh consisting of an OPEX of P0.0143 and CAPEX of P0.023. The adjustment was mainly due to the approval of only the first 44 priority projects out of the 88 projects proposed by NPC.

The amount collected will be used by NPC-SPUG to provide missionary electrification to an estimated one hundred forty (140) barangays.

2. **TRANSMISSION** - The transmission of electric power is a regulated common electricity carrier business, subject to the rule-making and rate-making powers of the ERC. For 2003, the following Guidelines were promulgated:

- **Transmission Wheeling Rates Guidelines**

  Sec. 43 of the EPIRA empowers the ERC to adopt alternative forms of internationally-accepted rate setting methodology as may be appropriate. The Performance-Based Ratemaking (PBR) methodology was adopted as it promotes efficiency.

  The Commission promulgated on 29 May 2003 the Transmission Wheeling Rate Guidelines (TWRG), a PBR methodology for the transmission sector. Said promulgation is a milestone accomplishment as it replaces the return on rate base (RORB) methodology used for more than eighty (80) years. Contrary to the RORB, PBR uses forecasts in determining recoverable costs and provides incentive to implement efficiency measures in order to retain savings.

The on-going privatization efforts for Transco makes the PBR methodology timely and significant. The PBR is a win-win approach as it is intended to benefit both consumers and investors. The latter is expected to realize high profits in the initial years while the consumers will enjoy the benefits of reasonable and affordable electricity rates, and greater quality of electric service in the longer term.

- **Guidelines for the Sale and Transfer of the TRANSCO's Subtransmission Assets and the Franchising of Qualified Consortia**

The said Guidelines, promulgated on 17 October 2003, is designed to operationalize Sec. 8 of the EPIRA which provides for the privatization of "TRANSCO's subtransmission assets to qualified distribution utilities which are in a position to take over the responsibility for operating, maintaining, upgrading, and expanding said assets".

The guidelines set the standards to distinguish TRANSCO's assets from its subtransmission assets, establish an approval process prior to the final sale and transfer of subtransmission assets to the Distribution Utilities, and govern the granting of franchise to the consortium or juridical entity to operate the subtransmission assets.

3. **DISTRIBUTION** - The establishment in 2002 of the major policies relevant to the rate unbundling applications filed by distribution utilities, both private utilities and electric cooperatives, paved the way for the completion of more than 50% of said cases in the year 2003.

Moreover, the promulgation of guidelines on Section 60 of RA 9136 in October 2002 triggered the issuance of 118 provisional authorities (PAs) to electric cooperatives to reduce their rates due to the condonation of their debts. Aside from the rate unbundling and loan condonation applications, the regulation of the distribution sector was highlighted by the issuance of certificates of public convenience and necessity (CPCNs), the approval of development projects of distribution utilities, and the implementation of the first two phases of the MERALCO tax refund.

- **Unbundling of Rates**

  Section 36 of the EPIRA provides the legal basis for the unbundling of rates of distribution utilities. According to the Act, each distribution utility shall file its revised rates for the approval by the Commission. The distribution retail wheeling charge shall be unbundled from the distribution retail supply rate and the rates shall reflect the respective costs of providing each service. For both the distribution retail wheeling and supply charges, inter-class subsidies shall be removed.

  Rates are unbundled to identify and separate the individual cost for providing each electric service (generation, transmission, distribution, and supply). The specific components of electricity bill are itemized. Thus, with the unbundling of electricity rates, the pricing of electricity becomes more transparent and understandable to electricity consumers.

  The Commission decided seventy-four (74) unbundling of rates applications in 2003: six (6) for Private Utilities (PUs) and sixty-eight (68) for Electric Cooperatives (ECs). (Please refer

to Annex 2 for a complete listing). Consistent with the previous practice, the ERC adopted a format for the Uniform Rate Filing Requirements (UFR) to separate the costs related to the functions of Generation, Transmission, Distribution, and Supply and present the relevant issues that affect their rates. Year 2000 data were used in accordance with the Implementing Rules and Regulations of Republic Act No. 9136 (R.A. 9136), being the most current audited full year available at filing time.

The Commission takes pride in being able to process one hundred forty (140) and decide on seventy-four (74) distinct cases of unbundling, a feat that is unprecedented in the world.

- **Approval of Application to Build, Install, Operate and/or Increase the Capacities of Distribution Utilities**

To improve the provision of electricity services to the end-users, the Commission conducted seven (7) hearings and approved three (3) applications to build, install, operate, and/or increase the capacities of generation/distribution facilities. Dagupan Electric Corporation (DECORP) prayed for and was granted authority to (a) relocate and continue operating a 10-MVA Power Transformer from Bacayao Substation, Calasiao, Pangasinan to San Jacinto, Pangasinan and (b) transfer, install and continue operating a 5-MVA Power Transformer from an Old Station Structure to a New Proposed Station Structure at the same San Jacinto Substation, Barangay Guibel, San Jacinto, Pangasinan. Davao Light and Power Company (DALIGHT) also applied for and was granted authority to upgrade its ECOLAND substation from 14 MVA to 33 MVA.

One important aspect being looked into in these cases is the verification of any significant costs or project investments of Distribution Utilities which shall become part of the rate base. This is to ensure that the contracting and procurement of equipment, assets, and services have been subjected to transparent and accepted industry procurement and purchasing practices to protect public interest.

- **Issuance of Certificates of Public Convenience and Necessities (CPCNs)**

The Commission conducted fifty-nine (59) hearings and issued thirteen (13) Certificates of Public Convenience and Necessity (CPCNs) to Meralco for the following franchise areas:

1. Rizal
    - Cainta
    - Taytay
    - Binangonan
    - Antipolo

2. Sto. Tomas, Batangas

3. Cavite
    - Noveleta
    - Kawit

4. Valenzuela

5. Malolos, Bulacan

6. Laguna
    - Magdalena
    - Biñan
    - San Pedro
    - Calamba

The CPCNs' issued are valid for twenty-five (25) years in accordance with the approved franchise of Meralco.

- **Reduction in Rates Due to Loan Condonation**

Section 60 of the EPIRA provides that all outstanding financial obligations of ECs to the National Electrification Administration (NEA) and other government agencies which were incurred for purposes of financing the rural electrification programs shall be assumed by PSALM Corporation. Consequently, the Commission shall ensure a reduction in the rates of electric cooperatives commensurate with the resulting savings due to the removal of the amortization payments of their

loans. Within five (5) years from the condonation of loan, any EC which shall transfer ownership or control of its assets, franchise or operations shall repay PSALM Corp. the total debts including accrued interests thereon.

After conducting regional public hearings, one hundred eighteen (118) provisional authorities (PAs) were issued to electric cooperatives to reduce their rates due to the condonation of their debts. (Please refer to Annex 3 for a complete listing).

The consumers in the rural areas enjoy an average rate reduction of P0.2029/kWh.

- **Resolution of Cases Involving Violation of ERC Rules and Regulations**

Four (4) cases on violations of ERC Rules and Regulations and other Related Laws were decided in 2003 - Meralco on ERC Case No. 2001-676 (ERB Case No. 2000-87) and ERC Case No. 2001-677 and Public Utility Division [PUD] – Olongapo on ERC Case Nos. 2002-147 and 2003-416. In the meantime, eight orders were issued on alleged violations involving VECO, NPC, BELS, MECO and Meralco (2), PUD- Olongapo, and PAMES. Two (2) hearings were conducted on the same subject in 2003.

- **Approval of the Sale of Property, Power Purchase Agreement, and Revised Rates Schedule**

The petition of Dagupan Electric Corporation (DECORP) seeking approval of the Deed of Absolute Sale it entered into with Manaoag Utility Company, Inc. was granted. Meralco's application for the sale of its vacant property was approved as well.

Cabanatuan Electric Corporation (CELCOR) was also granted approval of the Memorandum of Agreement on purchased power it entered into with First Cabanatuan Ventures Corporation.

Six (6) petitions for revised rates schedule were also decided. The Electric Cooperatives include CANORECO (ERC Case Nos. 2001-836 and 2001-516), LEYECO IV (ERC Case No. 2001-283), FLECO (ERC Case No. 2001-349), VRESCO (ERC Case No. 2001-800), FIBECO (ERC Case No. 2001-697), and SURSECO II (ERC Case No. 2001-250).

To recapitulate, below is the summary of cases heard and decided by the ERC with respect to the Distribution Sector:

Table 3. SUMMARY OF CASES HEARD AND DECIDED BY ERC IN 2003 (Distribution Sector)

Nature of Application/Case	Number of Hearings	Number of Cases Decided
1. Approval of unbundling of electricity rates as mandated by Section 36 Of R.A. 9136/ Approval of revised rate schedule	66	80
2. Approval of application to build, install, operate, and/or increase the capacities of generation/distribution facilities	7	3
3. Issuance of Certificate of Public Convenience and Necessity (CPCN)	59	13
4. Violation of ERC Rules and Regulations and other related laws	2	4
5. Approval of sound value appraisal of properties	4	-
6. Authority to Increase Capital Stock	3	-
7. Application for Reduction of Rates/Condonation of debts of Electric Cooperatives	113	-
8. Authority to Secure Loan	1	-
9. Approval for Sale of Property	-	2
10. Approval of Power Purchase Agreement	-	1
Total	**255**	**103**

Note: Hearings conducted and decisions issued do not necessarily refer to the same cases. For a complete list of all hearings conducted and decisions rendered by the Commission, please refer to Annex 4).

Promulgation of the Business Separation and Unbundling Plan (BSUP)

Sections 20, 26, & 36 of the EPIRA and Rule 10 (1), 6 (11), and 7 (5c) of its IRR require separate accounts for each business undertaking to ensure that the transmission or distribution businesses neither subsidize related business undertakings nor encumber the businesses' assets to support the latter. To ensure compliance with said provision, the ERC promulgated the BSUP on 22 September 2004.

The Guidelines set out:

1. The rules and principles for the separation of accounts necessary to satisfy the requirements of the EPIRA and the IRR including:

    a. the accounting methods that must be maintained
    b. the requirements and format for reporting to the ERC and when such reports must be provided to the ERC
    c. how revenues and costs must be allocated, including between regulated and non-regulated activities
    d. how certain intra-group transactions must be reported and
    e. audit requirements

2. The structural and functional unbundling requirements including obligations relating to discrimination in the provision of services, the use of consumer-related information, the disclosure of information relating to electricity networks and generation facilities, the cross-subsidization of non-regulated activities, business separation and common directors, officers, and employees.

Aside from preventing the confusion of businesses and assets, the BSUP is also designed to ensure that the costs of regulated business and activities are efficient and allocated on a fair and reasonable basis. Compliance-monitoring with the prohibition on cross-subsidies is also integral in the BSUP.

- **Meralco Refund**

In June 2003, consumers within the franchise area of MERALCO began receiving their refund. The refund resulted from the 15 November 2002 Supreme Court decision respecting ERB Order of 16 February 1998 declaring that MERALCO overcharged its customer by including income taxes as part of the utility's operating expenses. The High Court affirmed the same in a resolution dated 9 April 2003, denying with finality MERALCO's motion for reconsideration. It said that it sees no reason to nullify the ERB order without any evidence that it is unlawful or unreasonable. The refund covered the period from February 1994 to May 2003 in the amount of P0.167/kWh.

The ERC, through a series of consultations, approved a scheme which divided the refund period into several phases and fast-tracked the refund process. Customer consumption for April 2003 determines which phase of refund a customer falls into. Phase 1, approved on 12 May 2003, benefited customers consuming 100 kWh or less during that month. Phase II, approved on 9 July 2003, covers consumers using 101 to 300 kWh.

Those who failed to claim their cash refunds automatically received credits to their subsequent billings until the refund amount was exhausted. Meralco first paid their registered customers or their duly authorized representatives with active accounts followed by former customers with terminated contracts.

2. **SUPPLY** – Just like the generation sector, the supply of electricity will eventually be open to competition. The ERC's role will be limited to the promulgation of rules and guidelines on the conduct of players under retail competition, and the monitoring and evaluation of market performance. In anticipation of this, the database on qualified contestable customers was established.

- **Establishment of Database of Qualified Contestable Customers**

One of the provisions of the EPIRA is retail competition and open access to distribution wires which must be implemented not later than three (3) years upon the effectivity of the Act. Upon the initial implementation of open access, all electricity end-users with a monthly average peak demand of at least one megawatt (1 MW) for the preceding twelve (12) months shall be allowed by the ERC to be the contestable market. Being part of the contestable market, these electricity users shall have the power to choose their source or provider of electricity.

To prepare for open access and retail competition, a database of qualified contestable customers of private distribution utilities was established. As of December 2003, there are 556 qualified contestable customers: 474 are from Luzon, 32 from the Visayas, and 50 from Mindanao. Of the total figure, 335 are industrial customers and 221 are commercial customers.

PROMOTION OF CONSUMER INTERESTS

ERC is mandated by Section 41 of the EPIRA to handle consumer complaints and to ensure the adequate promotion of consumer interests.

In addition to the three hundred forty-nine (349) cases filed prior to 2003, three hundred five (305) were filed in 2003. Four hundred sixty (460) cases or 70% of the total cases filed were resolved, two hundred and forty one (241) of which were completed (95 from cases filed prior to 2003 and 146 from cases filed in 2003) in 2003. The Commission conducted a total of one thousand two hundred sixty-nine (1,269) conferences on the subject. Below is the table of summary of complaints filed and resolved.

Table 4. SUMMARY OF COMPLAINTS FILED AND RESOLVED
(As of December 31, 2003)

	Filed	Resolved			Conferences	Letters	Orders
		Old	New	Total			
Old (Prior to 2003)	349	219	-	219			
Jan – 03	15	21	1	22	103	93	132
Feb - 03	18	16	6	22	102	166	125
Mar- 03	22	16	9	25	112	111	116
Apr - 03	18	10	3	13	84	109	107
May - 03	21	9	12	21	112	263	120
Jun - 03	38	11	12	23	113	180	167
Jul - 03	15	3	21	24	115	217	154
Aug - 03	22	2	14	16	129	277	112
Sep - 03	31	1	15	16	94	329	168
Oct - 03	43	2	11	13	85	394	215
Nov - 03	30	-	10	10	135	266	150
Dec - 03	32	4	32	36	85	543	137
Sub-total for Year 2003	305	95	146	241			
Total	654	314	146	460	1269	2948	1703

Information Dissemination Activities

Information dissemination drives totaling nine hundred thirty-one (931) were conducted for year 2003 to educate and update all the stakeholders in the industry, including the consumers, on issues and developments. These consist of:

1. public consultations
2. broadcast media guestings
3. print media interviews
4. phone queries
5. text messaging

Campaigns against the proliferation of fake meter seals and falsified test reports started in 2003.

The Commission, to further educate the consumers, intensified information campaigns through booth placements at the Light Rail Transit (LRT) and Metro Rail Transit (MRT) stations on November 27 and 28, 2003.

Meter Testing and Calibration

The Meter Section tested and calibrated 642,281 watt-hour meters. A total of 22,480 tampered meters were monitored in compliance w/ RA 7832 or the Anti-Pilferage of Electricity Act. There were also 837 inspections and investigations made pursuant to customer complaints filed with the Consumer Affairs Service (CAS). A total of one hundred ninety one (191) reference standards were tested.

Launching of Text ERC

The text ERC project was launched on June 27, 2003 to enable the electricity consumers nationwide to reach the Commission via ordinary cellular phones.

Consumers who have queries on anything pertaining to electricity can just type ERC <space> <message> then send it to 2920. The concerns of the electricity consumers are all addressed by the ERC through the Consumer

Affairs Service (CAS) which is in charge of monitoring and responding to text messages.

Through this new service, the consumers' concern on issues such as Meralco refund, universal charge, purchased power adjustment (PPA) and others can be readily clarified by the Commission. In addition, electricity consumers can easily report on electric meter problems, high electricity bills, and electric utilities' compliance plans.

ERC also went to different radio stations in Metro Manila, Metro Cebu, and Metro Davao to intensify public awareness of this new service.

Consumer Complaints after Failure of Negotiations

The Commission heard a total of four hundred thirty seven (437) consumer complaint cases filed against Distribution Utilities and Electric Cooperatives after the failure of the required arbitration process (consumer conferences) by the Consumer Affairs of the ERC.

Thirty-three (33) consumer complaint cases were decided , thirty-two (32) of which were dismissed and declared closed and terminated.

Others

Three thousand nine hundred sixteen (3,916) submissions by NPC & Distribution Utilities (DUs) were monitored by the Commission in order to ensure that the P0.30 mandated rate reduction was being implemented.

OTHER ACCOMPLISHMENTS

Organizational efficiency is measured by the performance of its workforce. Building the capacity of the Commission's personnel is vital for the regulator to effectively carry out its mandates under the EPIRA.

Thus, pursuant to Section 40 of the Act, the ERC shall establish rigorous training programs for its staff for the purpose of enhancing the technical competence of the ERC in the following areas: evaluation of technical performance and monitoring of compliance with service and performance standards; performance-based-rates-setting reform; environmental standards used; and other areas that will enable the ERC to adequately perform its duties and functions.

Several donor agencies have extended assistance to the Commission, among which are USAID, ADB and World Bank. The nature of assistance was in the form of:

- Technical Capacity Building composed of:
  - Rates Analysis and Unbundling
  - Policy Guidelines and Rules
- Guidelines for the Sale of Subtransmission Assets
- Transmission Wheeling Rates Guidelines
- Workshops and Seminars
- Consultancy Services
- Coordination and collaboration activities

During the transition phase of the electric industry restructuring, the Commission, in consonance with the statutorily prescribed timelines, embarked on a comprehensive on-the-job training program on Cost of Service Analysis and Rates Unbundling in collaboration with foreign and local consultants.
For CY 2003 the ERC conducted training programs on rates unbundling, wholesale electricity spot market, rules and guidelines on electricity regulation, new government accounting system (NGAS) and information technology. Specifically, executive seminars on the EPIRA, lifeline rates and demand allocators, calculation of generation and transmission costs, demand allocators for streetlights, long-run avoidable cost, time of use rates, forecasting in the energy sector, functionalization of "other revenue", and rate case process in the U.S., were provided to the management/or staff.

A weekend-long seminar at Lagos del Sol, Lake Caliraya, Laguna on the EPIRA was conducted by the power industry experts and attended by ERC officials with positions of Division Chief and higher. Speakers included Mr. Peter Wallace, a leading political, economic and business analyst; Atty. Oscar E. Ala, former ERB Board Member; Engr. Artemio P. Magabo, former University of the Philippines (UP) Professor and ERB Board Member; Dr. Fernando Y. Roxas from the Asian Institute of Management (AIM); Engr. Rowaldo R. del Mundo, UP Associate Professor; Ms. Divina Chingcuanco, USAID project consultant; Mr. David Dawson of PricewaterhouseCoopers; Dr. Larry Blank from Tahoe Economics; and Mr. Michael Pitlock, former Commissioner of the Nevada Public Utilities Commission.

Visits by ERC officials and staff to other countries and the coming of energy officials from other jurisdictions provide further opportunity for information exchanges.

The Public Utilities Commission of Ohio (PUCO) headed by Commissioner Judy A. Jones discussed its activities and approaches in energy regulation to the Chairman, Commissioners, and selected staff of the ERC. The series of meetings resulted in a tie-up with PUCO, USA thru the Philippine Energy Program under the aegis of the USAID and USEA.

Several ERC Officials, on the other hand, attended the "Competitive Electricity Market Regulation Course" at Central London and Chester, England from 20-28 October 2003. Said seminar was made possible in cooperation with EA Technology Consultancy through the auspices of the United Kingdom (UK) government through its Department of Trade and Industry (DTI). The structure of the training course mainly focused on visits made to the UK energy industry counterparts such as the UK Regulator, the Market Operator, the Systems Operator, and large generation and distribution companies. Lectures were conducted followed by round table discussions. The training was concluded by a course summary conducted by EA Technology in Chester, North England.

CHALLENGES AHEAD

The Commission still faces a lot of challenges before the restructured electricity industry operates at its optimum level. These challenges, among others, are:

Retail Competition and Open Access

Open access refers to the system of allowing any qualified person the use of transmission and/or distribution system and associated facilities subject to the payment of transmission and/or distribution wheeling rates duly approved by the ERC. The EPIRA timeline specified that this shall be implemented on June 26, 2004.

However, before retail competition can be implemented, there are five (5) conditions that need to be in place and these are:

1. Establishment of the wholesale electricity spot market
2. Approval of unbundled transmission and distribution wheeling charges
3. Initial implementation of the cross subsidy removal scheme
4. Privatization of at least seventy (70%) percent of the total capacity of the generating assets of NPC in Luzon and Visayas and
5. Transfer of the management and control of at least 70% of the total energy output of power plants under contract with NPC to the IPP Administrators.

ERC expects that the unbundling of distribution charges of the few remaining distribution utilities will take place not later than December 2004. ERC has also complied with the EPIRA mandate for the full removal of the Inter-Regional Cross Subsidy starting September 2002. The three year phase out program of the Intra-Regional Grid Cross Subsidy and of the Inter-Class Subsidy Charges begun in June 2003 with the end-in-view of a total phase out of all subsidies by 20 June 2006.

Of the five above, the most challenging conditions are the 1) the privatization of at least seventy percent of the total capacity of generating assets of NPC in Luzon and Visayas and 2) the transfer of management and control of at least seventy percent of the total energy output of power plants under contract with NPC to the IPP Administrators. Investors are assessing the playing field in the generation sector to ensure that they do not compete with an NPC whose generation costs are subsidized by the Government.

The establishment of WESM, which is also one of the pre-conditions for retail competition, is scheduled to be fully operational by 31 December 2005.

RA No. 9136 authorizes the ERC to enforce the rules and regulations governing the operations of the electricity spot market and monitor the activities of the Spot Market Operator and other participants in order to ensure greater supply and rational pricing of electricity.

In March 2003, various technical sub-groups of the WESM-Technical Working Group (TWG) composed of Metering, Market Operations, System Operations, Legal and Regulatory Services, and Billing and Settlement were created.

On 26 June 2003, the DOE with the endorsement of the WESM-TWG submitted the proposed WESM Price Determination Methodology (PDM) to the ERC for approval. The same PDM was posted on the ERC website on 5 December 2003 for comments from stakeholders. After a public consultation was conducted, the Commission issued an Order dated 15 March 2004, approving in concept some elements of the said methodology. The PDM shall be subject to final approval upon submission by the Market Operator (MO) of the requirements contained in the said Order. Aside from the PDM, the Commission has to approve, among others, the market fees and the administrative price cap prior to the spot market commencement date.

The market trial using the Market Management System (MMS) prototype is set to commence on 27 December 2004. The MMS provides the necessary infrastructure for reliable and efficient operation of the WESM. It includes a network of computer hardware and software platforms to support fundamental WESM functions, such as electricity trading, metering, billing, and settlement.

There are many rules and regulations yet to be approved and promulgated, many conditions yet to be satisfied, and many capabilities yet to be acquired before WESM becomes operational. These are the challenges the ERC, the Market Operator and all other participants to the WESM have to face.

- **Effective implementation of Performance-Based Regulation (PBR)**

  Recognizing the merits and significance of the PBR methodology, the Commission has started drafting the Distribution Wheeling Rate Guidelines (DWRG) which promotes a performance-based rate setting methodology for distribution utilities. The shift to PBR would provide the appropriate incentives to distribution utilities to further improve efficiency, while maintaining reasonable rates and improving the quality of service. In PBR, revenue is fixed, but rates need to be adjusted annually to reflect volume and inflation.

- **Arresting the proliferation of fake meter seals and falsified test reports**

  During the first half of the year, the ERC discovered the existence of fake meter seals and falsified test reports in Luzon and the Visayas. The fake meter seals bore a 2003 mark and inscribed with the words "Metro Manila". The year indicated in the meter seals meant that the seals were manufactured in year 2003. These seals could not have been released by ERC since it did not, at the time, have a 2003 meter presser. Falsified test reports, on the other hand, do not bear the duly authorized signature of ERB/ERC engineers.

  Although the Commission has initiated a number of meetings with electric meter dealers in Metro Manila and Cebu, there is still a need to intensify its investigation and enforcement capabilities especially since the meter seals and test reports guarantee that the meters have been tested by the ERC and that such will register accurately the electric consumption of the electric meter users. The public must have no doubt about the authenticity of the meters installed in their households, offices, plants, and industries.

- **Service Quality Regulation**

The Commission plays a significant role in ensuring the quality, reliability, adequacy and efficiency of electricity services. With the promulgation of the Philippine Grid and Distribution Codes (PGDC) and the guidelines for the submission, evaluation and approval of the Statements of Compliance and Compliance Plans, the Commission finished the initial evaluation of the applications made by the Distributors, Grid Owner, and System Operator to the PGDC. The hearings on the said applications will be conducted in 2004.

The Commission will endeavor to conduct more frequent on-site plant inspections in spite of the limited financial resources and manpower complement of the ERC. Inspection of the diesel-powered plants will be prioritized since an inspection manual is already in place.

- **Natural Gas Regulation**

The discovery of abundant deposits of natural gas in the country signals a leap towards energy self-reliance and necessitates enactment of a law regulating the exploration, distribution and utilization of the same. The "Downstream Natural Gas Industry Act of 2003" was passed by the House of Representatives and transmitted to the Senate for deliberation. Senate Bill No. 2524 was likewise introduced in the Upper House of Congress by Senator Juan M. Flavier who stressed the viability of natural gas as a substitute for imported petroleum products and the need "to create conditions favorable to the establishment of a downstream Natural Gas Industry".

A bill will inevitably be passed and whatever is the Act's final form, ERC will definitely figure prominently in it as it has a

huge role to perform in the natural gas regulation. The Commission recognizes its responsibility to adopt a proper pricing methodology in order to fix and regulate the rate or schedule of prices of piped gas in the country.

- **Reduction in the Price of Indigenous Energy**

Section 35 of the EPIRA and Section 3 of Executive Order No. 100, dated 3 May 2002, call for the reduction in the price of indigenous energy used for electricity due to reduction in royalty. The function, however, is subject to the issuance of Administrative Guidelines by the Department of Finance and the Department of Energy in consultation with ERC and other concerned agencies (Section 7, E.O. 100).

One challenge is reconciling the royalty on indigenous geothermal energy and natural gas and its impact on electricity prices. Effective price or rate setting means that ERC personnel should have the requisite knowledge and appreciation of indigenous energy and its relationship to other sources of energy and its role in bringing about self-sufficiency in fuel production, an important policy of the State.

Another challenge is how the royalties on indigenous energy sources should be adjusted in the face of OPEC increases in fossil fuels as well as the increases in world coal prices.

- **Promulgation and Implementation of Competition Rules and Complaints Procedure**

The introduction of competition in the electric power industry opens another critical aspect in energy regulation: *competition regulation*.

In the exercise of this function, the Commission shall monitor market behavior in order to develop an electricity market that is efficient and beneficial to all industry participants and allow for the greatest range of customer choices in terms of product, service, price and supply. The Commission is called to stay alert so that in case of abuse of market power, cartelization and anti-competitive or discriminatory behavior, the Commission can come in, exercise its regulatory powers, and tip the balance.

The Commission conducted an initial public consultation on 19 March 2003. Said Competition Rules was set for final public consultation on 22 March 2004, particularly on the most contentious issues, one of which was the applicability of the said Rules to contracts existing before the effectivity of the EPIRA Law. The finalization of the rules is subject to the resolution of the said issues.

There are very few countries and economies which implemented competition in their electricity sector. There is very limited information, literature, and studies on the subject. The Commission and the staff has to learn as much as they can before and during the implementation phase of the program. Hopefully, the experience of the Commission will provide valuable insights and lessons to others who will in the future implement retail competition.

- **Promulgation of Rules, Regulations, Guidelines, and Procedures**

There are, indeed, more challenges ERC has to face as a regulator. The Commission has to issue other rules, regulations, procedures, and guidelines fundamental to building the foundations of the restructured electric power industry. Some of these rules and other issuances, which are in various stages of drafting, public consultation, and review, include:

- Guidelines for the Regulation of Power Sales by Generation Companies Prior to the Implementation of Retail Competition and Open Access or Establishment of the WESM
- Guidelines on the Full Cost Recovery of the Generation Facilities and Delivery Systems Built to Serve Remote, Unserved and Unviable Areas
- Financial Guidelines for Generation
- Regulatory Framework on Off-Grid Generation
- WESM Monitoring Manual
- Guidelines for the Issuance of Permits to Qualified Third Party (QTP)
- Plant Inspection Manual (comprehensive)

- Guidelines for the Evaluation and Approval of Capital Expenditures for Transmission
- Guidelines for the Establishment of Universal Charge Components
- Guidelines for the Setting of Ancillary Services Charges
- Guidelines on Open Access Transmission Services (OATS)
- Guidelines for Approval of the Distribution System Loss Caps
- Guidelines on the Conduct of Investigation, Enforcement of Rules, Regulations, Orders and Resolution of the Commission (including Manual for On-Site Inspection for DUs and geothermal, hydroelectric, and plants other than diesel-powered)
- Guidelines for the Evaluation and Approval of Capital Expenditures of Distribution Utilities

- Guidelines for the Appraisal of Property, Plant, and Equipment for Rate Fixing Purpose/ Asset Valuation
- Reliability Targets
- Targets for Other Standards (Power Quality, Customer Service, Personal Safety, etc.)
- Open Access Distribution System
- Magna Carta for Consumers
- Guidelines for the Issuance of Suppliers License
- Uniform Business Practices for Retail Competition Players
- Guidelines and/or Code of Conduct for Participants in Retail Competition
- Customer Supply Code

Effective regulation depends largely on the rules, procedures, and guidelines placed by the regulator. Unless provided for

explicitly in the law, it rests on the sound and able discretion of the Commission on what, when, where, and for whom these regulatory measures will apply.

- **Need for Continuous Capacity Building**

With the challenges inherent in electricity industry regulation and the continuous and steady expansion of the ERC's powers and functions, it is imperative that the Commission be given adequate funding to support its program to provide the staff the full information and education it needs. The Commission's workforce must be equipped with technical skills to effectively carry out its duties and functions provided for in the EPIRA especially in the areas of market and tariff regulation.

Indeed, adequate, effective, and relevant training and education of the ERC personnel are necessary preconditions for effective regulation. Continuous capacity building will make the Commission more equipped with the technical competence necessary in restructuring the electricity industry.

- **Need for Financial Independence**

All the challenges abovementioned will be adequately faced if the Commission is granted fiscal autonomy. Regulatory effectiveness will improve if funds are made available to the regulatory authority. The ERC generates more income than expenses (see Financial Highlights for details). All collections were, however, remitted to the National Treasury. If the ERC is allowed to use its funds, key short-term and long-term financial decisions can be judiciously and readily devised and implemented.

Should ERC's proposal for the grant of fiscal independence be integrated into the bill and eventually passed into law, the twin problem of sourcing of funds for the efficient management of the ERC and the optimal regulation of the electricity market will be addressed accordingly, without unnecessarily burdening government funds. More importantly, the perception of ERC's independence will be enhanced.